

REMARKS

Reconsideration and allowance are requested.

The office action requests that Figures 1-4 be designated as prior art. Applicant respectfully declines. Those figures support the text in the background section of the specification. Neither Figures 1-4 nor in the background section indicate or admit that Figures 1-4 are prior art. They represent the work and assessment of the inventor of different approaches he considered as possible solutions to the problems associated with remote node synchronization over a packet network without requiring synchronization of intermediary nodes.

For the same reasons, Applicant also respectfully traverses the Examiner's allegation that Figure 3 is admitted prior art (APA) for purposes of rejecting claims. Applicant did not admit Figure 3 was prior art either in Figure 3 or in the background section of the application. In order for there to be such an admission, Applicant would need to specifically state that something is in fact prior art. See e.g., MPEP 2129 (II) relating to discussion of prior art in the specification: "[w]here the specification identifies work done by another as 'prior art,' the subject matter so identified is treated as admitted prior art." In this case, there is no statement in the specification identifying Figure 3 or any other Figure as "prior art."

The specification is amended to overcome the informalities as requested.

Several claims are amended to overcome the objections and antecedent basis concerns noted.

Applicant notes with appreciation the Examiner's allowance of claims 18-33 and the indication of allowable subject matter in claims 5, 12, 16, 17, 39, 43, 44, 48-54, 57, 61, 62, and 65-70.

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Claims 1, ,4, 7, 8, 11, 13-15, 34-37, 40-42, 45, 46, 55, 56, 58-60, and 64 stand rejected for obviousness based on Applicant's own Figure 3 and US 2004/0258099 to Scott. Claims 2, 3, 6, 9, 10, 38, 47, and 63 stand rejected on this same ground and additionally relying on WO 02/13421 to Lundh. This rejection is respectfully traversed.

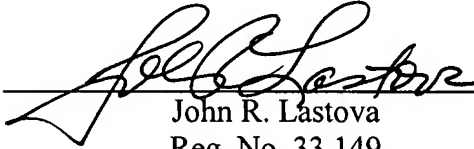
First, Figure 3 is not admitted to be prior art for the reasons explained above. Second, Scott is not prior art. The instant application was filed on August 22, 2003. Scott's §102(e) filing date is March 4, 2004 (not the GB priority application date). Because Scott's effective filing date as a reference is after August 22, 2003, Scott is not prior art. Accordingly, the prior art rejections should be withdrawn.

The application is in condition for allowance. An early notice to that effect is requested.

Respectfully submitted,

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